

Minutes of the
Board of Minerals and Environment Meeting
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

10:00 a.m. CST
February 20, 2003

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Vice Chairman Lee McCahren. Secretary Kathy Johnson declared a quorum was present.

BOARD MEMBERS PRESENT: Lee McCahren, Kathy Johnson, Linda Hilde, Pat Healy, and Brian Radke.

BOARD MEMBERS ABSENT: Richard Sweetman, Wilbert Blumhardt, Chuck Monson, and Mike DeMersseman.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM NOVEMBER MEETING: Motion by Johnson, seconded by Radke, to approve the minutes of the November 21, 2002, Board of Minerals and Environment meeting. Motion carried.

SURFACE MINING ISSUES: Eric Holm was administered the oath by Lee McCahren. He testified regarding exchanges of surety, releases of liability, transfers of liability, releases of surety, and acceptance of surety riders (see attached matrix sheet).

Exchanges of Surety: Motion by Healy, seconded by Radke, to approve exchanges of surety for American Colloid Company, Belle Fourche, SD, Mine Permit No. 6, exchange Surety No. 5133847 for Irrevocable Letter of Credit No. NZS463959, Wells Fargo Bank, in the amount of \$310,000; American Colloid Company, Belle Fourche, SD, Mine Permit No. 463, exchange Surety No. 5916203 for Irrevocable Letter of Credit No. NZS463957, Wells Fargo Bank, in the amount of \$149,000; and American Colloid Company, Belle Fourche, SD, Mine Permit No. 465, exchange Surety No. 6029325 for Irrevocable Letter of Credit No. NZS463958, Wells Fargo Bank, in the amount of \$120,000. Motion carried.

Proposal to Modify Exchange of Surety Procedures - Letters of Credit: Mr. Holm reported that on July 19, 2001, the Board of Minerals and Environment approved a procedure allowing the Minerals and Mining Program staff to process routine surety exchanges for all permitted and licensed operations under SDCL 45-6, 45-6B, and 45-6C. At that time, staff only asked for the authority to process exchanges for certificates of deposit and corporate surety bonds, which were the two types of surety regularly accepted by the board. Since that time, there has been an increasing use of letters of credit due to the tight surety bond market. Mr. Holm requested that staff also be given the authority to process routine surety exchanges involving letters of credit.

The procedure will be the same as what the board approved on July 19, 2001, to process certificate of deposit and corporate surety bond exchanges.

Mr. Holm stated that because the board only meets once a month, and at times may not meet for several months, operators may be forced into the position of paying for two different sureties at the same time while waiting for board action. For example, if a letter of credit is replacing a surety bond, the operator will pay additional premiums on the bond until the letter of credit is accepted by the board.

The department believes the proposed procedure for exchanging letters of credit is consistent with state law because staff is not asking for the authority to either release an operator's surety or reclamation liability. The department, in consultation with the SD Attorney General's Office, developed a format for all letters of credit. Any letter of credit that does not follow the format is returned to the operator for correction. Any unusual surety exchange requests that deal with such things as demand notes will continue to be scheduled for board approval.

Mr. Holm noted that the Minerals and Mining Program staff will continue to track and monitor all surety exchanges as they have in the past.

Motion by Radke, seconded by Johnson, to adopt the staff's proposal to modify the exchange of surety procedures for letters of credit. Motion carried.

Partial Release of Liability: Mr. Holm reported that Dakota Block Company reclaimed 2.81 acres to grazing. The area was seeded in mid-1990. Dakota Block Company is now requesting release of liability for the reclaimed portion of the site. The landowner is parking junked cars and grazing cattle on the reclaimed area. Dakota Block Company is concerned that if their liability is not released and the landowner continues to park junked cars and graze cattle on the reclaimed area, the company will be held liable for the future actions of the landowner.

Mr. Holm said the \$2,500 reclamation bond will remain in effect until the remainder of the mine is reclaimed.

Motion by Healy, seconded by Radke, to approve partial release of liability for Dakota Block Company, Rapid City, SD, Mine Permit No. 457, release partial liability for reclaimed portion of SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26; T2N-R8E, Pennington County. Motion carried.

Transfers of Liability and Releases of Surety: Motion by Johnson, seconded by Hilde, to release \$3,000 for Charles Kontz, Volga, SD, Mine License No. 93-496 and transfer liability for one site in Moody County to Bowes Construction, Inc., Brookings, SD, Mine License No. 83-164; release \$2,000 for James O. Monson, Veblen, SD, Mine License No. 96-599 and transfer liability for a site in Marshall County to Unique RR Contractors, Wahpeton, ND, Mine License No. 02-742. Motion carried.

Transfer of Liability: Motion by Hilde, seconded by Healy, to transfer liability for a site in Roberts County from Concrete Materials, Sioux Falls, SD, Mine License No. 83-144 to L.G. Everist Inc. & Subsidiaries, Sioux Falls, SD, Mine License No. 83-37; transfer liability for a site

in Turner County from Weber Brothers Excavating, Inc., Sioux Falls, SD, Mine License No. 93-497 to Rechnagel Construction, Inc., Hurley, SD, Mine License No. 83-135; and transfer liability for one site in Day County from Day County Highway Department, Webster, SD, Mine License No. 83-34 to Egeland Township, Waubay, SD, Mine License No. 92-457. Motion carried.

Releases of Liability: Motion by Radke, seconded by Healy, to release liability for the following: Aggregate Construction, Inc., Minot, ND, Mine License No. 89-382, one site in Meade County; John A. Carlson, Inc., Winner, SD, Mine License No. 83-1, three sites in Tripp County; Orville Haines, White Lake, SD, Mine License No. 86-337, one site in Aurora County; Weatherton Contracting Co., Inc., Beresford, SD, Mine License No. 88-364, one site in Hutchinson County; Albert Yager, Madison, SD, Mine License No. 92-459, one site in Lake County; Davison County Highway Department, Mitchell, SD, Mine License No. 83-32, one site in Davison County; McCook County Highway Department, Salem, SD, Mine License No. 83-157, one site in McCook County; and DOT-Pierre Region, Pierre, SD, Mine License No. 83-10, one site in Cambell County and two sites in Walworth County. Motion carried.

Motion by Healy, seconded by Johnson, to accept rider increasing surety to \$6,000 for Kellen & Streit, Inc., Yankton, SD, Mine License No. 83-207; and to accept rider adding legal description of SW 1/4 SE 1/4 Section 6; T3S-R8E, Custer County for Zandstra Construction, Inc., Rapid City, SD, Mine License No. 84-254. Motion carried.

OIL AND GAS CASE NO. 7-2002, LUFF EXPLORATION COMPANY, DENVER, CO: Lee McCahren, hearing chairman, opened the hearing at 10:30 a.m. CST.

The purpose of the hearing was to consider the application of Luff Exploration Company to amend Oil and Gas Order 1-73 for the State Line Field to space the "B" Zone of the Red River Formation underlying all of Section 20, together with the north half of Section 29, all in Township 23 North, Range 5 East of the Black Hills Meridian, Harding County, South Dakota, to be a single spacing unit consisting of approximately 741 acres for the drilling of one or more horizontal laterals from the existing Ferkingstad 33-20 well.

Scott Sumner, attorney from Rapid City, represented Luff Exploration Company.

Roxanne Giedd, Assistant Attorney General, represented the Department of Environment and Natural Resources.

The department received no petitions to intervene in this matter.

Richard George, Manager of Engineering, was administered the oath by Mr. McCahren and testified on behalf of Luff Exploration Company.

Exhibits offered and received into the record for Luff Exploration Company:

Exhibit 1 - General location map

Exhibit 2 - Luff's Request

Exhibit 3 - Requested expanded spacing unit (shown in green)

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Exhibit 4 - Njos 1-19 well, State Line Field
Exhibit 5 - Working interest owners
Exhibit 6 - Royalty and overriding royalty interest owners
Exhibit 7 - Red River Structure Map, State Line Field (existing spacing unit)
Exhibit 8 - Red River Structure Map, State Line Field (proposed expanded spacing unit for horizontal drilling and possible lateral trajectory)
Exhibit 9 - Porosity logs for Njos 1-19 and Ferkingstad 33-20
Exhibit 10 - Graph, monthly oil production and monthly water production
Exhibit 11 - Graph, water cut curve
Exhibit 12 - History of operators and casing leaks for Ferkingstad 33-20 wellbore
Exhibit 13 - Status of wellbore
Exhibit 14 - Ferkingstad 33-20 - vertical completion, oil & water production
Exhibit 15 - Ferkingstad 33-20 - vertical completion, water cut
Exhibit 16 - Ferkingstad 33-20 - porosity log
Exhibit 17 - Possible secondary recovery operations
Exhibit 18 - Summary of Luff's request

Fred Steece, DENR Oil and Gas Supervisor, was administered the oath by Mr. McCahren and testified on behalf of the Department of Environment and Natural Resources.

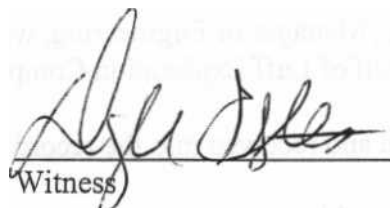
Notice of the public hearing was published December 11 and 18, 2002, in the Pierre Capital Journal, Rapid City Journal, Nation's Center News and Black Hills Pioneer. Affidavits of Publication are on file at the DENR office in Rapid City. The hearing was originally scheduled for January 16, 2003, but was postponed until February 19, 2003, due to the weather.

Motion by Healy, seconded by Radke, to adopt the Findings of Fact and Conclusions of Law, and to authorize Mr. McCahren to execute the Order approving the petition of Luff Exploration Company to amend Oil and Gas Order 1-73 for the State Line Field to space the "B" Zone of the Red River Formation underlying all of Section 20, together with the north half of Section 29, all in Township 23 North, Range 5 East of the Black Hills Meridian, Harding County, South Dakota, to be a single spacing unit consisting of approximately 741 acres for the drilling of one or more horizontal laterals from the existing Ferkingstad 33-20 well. Motion carried.

OTHER ITEMS OF BUSINESS: The next board meeting is March 19-20, 2003, at the Matthew Training Center in Pierre.

ADJOURNMENT: Vice Chairman McCahren declared the meeting adjourned at 11:45 a.m. CST.

 3/23/03
Secretary Date

 3/23/03
Witness Date

BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Matthew Training Center
PierreDate 2-20-03

NAME (PLEASE PRINT)

ADDRESS

REPRESENTING

FRED STEECERAPID CITYDENR : O+GEric HolmPierreDENRMike Cepak""Mack McGillivrayRapid CityDENR/O+GRichard George~~Pierre, CO~~
~~Rapid City~~Luff ExplorationScott SumnerRapid City"